

§ 1.197

the examiner, the Board of Patent Appeals and Interferences may enter an order otherwise making its decision final.

(f) See § 1.136(b) for extensions of time to take action under this section in a patent application and § 1.550(c) for extensions of time in a reexamination proceeding.

[49 FR 48453, Dec. 12, 1984, as amended at 54 FR 29552, July 13, 1989; 58 FR 54510, Oct. 22, 1993; 62 FR 53197, Oct. 10, 1997]

§ 1.197 Action following decision.

(a) After decision by the Board of Patent Appeals and Interferences, the application will be returned to the examiner, subject to appellant's right of appeal or other review, for such further action by appellant or by the examiner, as the condition of the application may require, to carry into effect the decision.

(b) Appellant may file a single request for rehearing within two months from the date of the original decision, unless the original decision is so modified by the decision on rehearing as to become, in effect, a new decision, and the Board of Patent Appeals and Interferences so states. The request for rehearing must state with particularity the points believed to have been misapprehended or overlooked in rendering the decision and also state all other grounds upon which rehearing is sought. See § 1.136(b) for extensions of time for seeking rehearing in a patent application and § 1.550(c) for extensions of time for seeking rehearing in a reexamination proceeding.

(c) Termination of proceedings. Proceedings are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action (§ 1.304) except:

(1) Where claims stand allowed in an application or

(2) Where the nature of the decision requires further action by the examiner.

The date of termination of proceedings is the date on which the appeal is dismissed or the date on which the time for appeal to the court or review by civil action (§ 1.304) expires. If an appeal to the court or a civil action has been filed, proceedings are considered terminated when the appeal or civil ac-

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tion is terminated. An appeal to the U.S. Court of Appeals for the Federal Circuit is terminated when the mandate is received by the Office. A civil action is terminated when the time to appeal the judgment expires.

(35 U.S.C. 6, Pub. L. 97-247; 15 U.S.C. 1113, 1123)

[46 FR 29184, May 29, 1981, as amended at 49 FR 48453, Dec. 12, 1984; 54 FR 29552, July 13, 1989; 58 FR 54510, Oct. 22, 1993; 62 FR 53198, Oct. 10, 1997]

§ 1.198 Reopening after decision.

Cases which have been decided by the Board of Patent Appeals and Interferences will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.196 without the written authority of the Commissioner, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

[24 FR 10332, Dec. 22, 1959, as amended at 49 FR 48453, Dec. 12, 1984]

MISCELLANEOUS PROVISIONS

§ 1.248 Service of papers; manner of service; proof of service in cases other than interferences.

(a) Service of papers must be on the attorney or agent of the party if there be such or on the party if there is no attorney or agent, and may be made in any of the following ways:

(1) By delivering a copy of the paper to the person served;

(2) By leaving a copy at the usual place of business of the person served with someone in his employment;

(3) When the person served has no usual place of business, by leaving a copy at the person's residence, with some person of suitable age and discretion who resides there;

(4) Transmission by first class mail. When service is by mail the date of mailing will be regarded as the date of service;

(5) Whenever it shall be satisfactorily shown to the Commissioner that none of the above modes of obtaining or serving the paper is practicable, service may be by notice published in the *Official Gazette*.

(b) Papers filed in the Patent and Trademark Office which are required